

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                             |   |                          |
|-----------------------------|---|--------------------------|
| In re U.S. Application of:  | ) |                          |
|                             | ) |                          |
| Véronique FERRARI et al.    | ) | Art Unit: 4161           |
|                             | ) |                          |
| Application No.: 10/528,698 | ) | Examiner: Kevin S. Orwig |
|                             | ) |                          |
| Filed: December 6, 2005     | ) | Confirmation No.: 4617   |
|                             | ) |                          |
| For: LIPSTICK COMPRISING A  | ) |                          |
| SEQUENCED POLYMER           | ) | <b>VIA EFS-WEB</b>       |

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicants bring to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed foreign and non-patent literature documents are attached. Copies of the U.S. patents, patent application publications, co-pending applications, and respective office actions are not enclosed as they are available on the Imaged File Wrapper of PAIR.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality

standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. See *a/so* M.P.E.P.

§ 2001.06(b). Accordingly, although Applicants are not representing that the Office Actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive Office Actions in co-pending applications on the attached form.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

The following is a statement regarding the non-English language documents:

1. **DE 100 29 697**: An English language Derwent abstract of this document is listed on the attached IDS Form PTO/SB/08, and a copy of the abstract is submitted herewith.
2. **EP 0 080 976**: An English language Derwent abstract of this document is listed on the attached IDS Form PTO/SB/08, and a copy of the abstract is submitted herewith.
3. **EP 0 549 494**: This document is believed to be related to U.S. Patent Nos. 5,756,635 and 6,258,916, cited on the attached IDS Form PTO/SB/08.
4. **EP 0 550 745**: is believed to be related to U.S. Patent No. 5,519,063, cited on the attached IDS Form PTO/SB/08.
5. **EP 0 648 485**: This document is believed to be related to U.S. Patent No. 5,538,717, cited on the attached IDS Form PTO/SB/08.

6. **EP 0 667 146**: This document is believed to be related to U.S. Patent Nos. 6,120,781 and 6,132,742, cited on the attached IDS Form PTO/SB/08.
7. **EP 0 847 752**: This document is believed to be related to U.S. Patent No. 6,649,173, cited on the attached IDS Form PTO/SB/08.
8. **EP 0 951 897**: This document is believed to be related to U.S. Patent No. 6,180,123, cited on the attached IDS Form PTO/SB/08.
9. **EP 1 024 184**: This document is believed to be related to U.S. Patent No. 6,399,691, cited on the attached IDS Form PTO/SB/08.
10. **EP 1 066 817**: This document is believed to be related to U.S. Patent No. 6,342,237, cited on the attached IDS Form PTO/SB/08.
11. **EP 1 201 221**: This document is believed to be related to U.S. Publication No. 2002/0098217, cited on the attached IDS Form PTO/SB/08.
12. **EP 1 356 799**: This document is believed to be related to U.S. Publication Nos. 2003/0003154 and 2005/0201958, and U.S. Patent Nos. 6,946,518 and 7,358,303, cited on the attached IDS Form PTO/SB/08.
13. **FR 2 077 143**: This document is believed to be related to U.S. Patent No. 3,910,862, cited on the attached IDS Form PTO/SB/08.
14. **FR 2 079 785**: This document is believed to be related to U.S. Patent No. 3,673,160, cited on the attached IDS Form PTO/SB/08.
15. **FR 2 140 977**: An English language Derwent abstract of this document is listed on the attached IDS Form PTO/SB/08, and a copy of the abstract is submitted herewith.
16. **FR 2 232 303**: This document is believed to be related to U.S. Patent Nos. 3,937,811 and RE29871, cited on the attached IDS Form PTO/SB/08.

17. **FR 2 393 573**: This document is believed to be related to U.S. Patent Nos. 4,165,367 and 4,223,009, cited on the attached IDS Form PTO/SB/08.
18. **FR 2 710 552**: This document is believed to be related to U.S. Patent No. 5,681,877, cited on the attached IDS Form PTO/SB/08.
19. **FR 2 710 646**: This document is believed to be related to U.S. Patent No. 5,711,940, cited on the attached IDS Form PTO/SB/08.
20. **FR 2 775 566**: An English language Derwent abstract of this document is listed on the attached IDS Form PTO/SB/08, and a copy of the abstract is submitted herewith.
21. **FR 2 791 987**: This document is believed to be related to U.S. Patent No. 6,552,146, cited on the attached IDS Form PTO/SB/08.
22. **FR 2 792 190**: An English language Derwent abstract of this document is listed on the attached IDS Form PTO/SB/08, and a copy of the abstract is submitted herewith.
23. **FR 2 823 101**: This document is believed to be related to U.S. Publication No. 2003/0039621.
24. **FR 2 831 430**: An English language Derwent abstract of this document is listed on the attached IDS Form PTO/SB/08, and a copy of the abstract is submitted herewith.
25. **FR 2 832 720**: This document is believed to be related to U.S. Publication No. 2005/0020779, cited on the attached IDS Form PTO/SB/08.
26. **FR 2 842 417**: This document is believed to be related to U.S. Publication No. 2004/0241118, cited on the attached IDS Form PTO/SB/08.

27. **FR 2 844 709**: This document is believed to be related to U.S. Publication No. 2004/0142831, cited on the attached IDS Form PTO/SB/08.
28. **JP 06-279323**: An abstract of the disclosure of this document can be found in the English language Patent Abstract of Japan, submitted herewith, and cited on the attached IDS Form PTO/SB/08.
29. **JP 07-196450**: An abstract of the disclosure of this document can be found in the English language Patent Abstract of Japan, submitted herewith, and cited on the attached IDS Form PTO/SB/08.
30. **JP 07-309721** : An English language Abstract of this document is submitted herewith.
31. **JP 07-324017**: This document is also believed to be related to U.S. Patent No. 5,747,013, cited on the attached IDS Form PTO/SB/08.
32. **JP 08-119836** : An English language Abstract of this document is submitted herewith.
33. **JP 09-263518**: An abstract of the disclosure of this document can be found in the English language Patent Abstract of Japan, submitted herewith, and cited on the attached IDS Form PTO/SB/08.
34. **JP 11-124312**: This document is believed to be related to U.S. Patent No. 6,326,011, cited on the attached IDS Form PTO/SB/08.
35. **JP 2000-319325**: This document is believed to be related to U.S. Patent No. 6,552,146, cited on the attached IDS Form PTO/SB/08.
36. **JP 2002-201110**: This document is believed to be related to U.S. Publication Nos. 2004/0116634, 2004/0167304, 2004/0116628, 2004/0115149, 2004/0115148, 2004/0109838, 2005/0032998, 2004/0097657, 2004/0096409,

2005/0232887, 2004/0115157, 2005/0089536, 2004/0109836, 2004/0141937, 2004/0091444, 2004/0109835, 2008/0069793, 2008/0107617, and 2008/0207773, and U.S. Patent Nos. 6,833,419, 6,891,011, 6,964,995, 7,022,791, 7,025,973, 7,053,146, 7,081,507, 7,151,137, 7,186,405, 7,186,774, 7,244,421, 7,279,154, 7,297,328, 7,332,155, 7,393,520, and 7,399,478, cited on the attached IDS Form PTO/SB/08.

37. **JP-2002-201244** - JP-2002-201244 was cited by the Examiner cited during the prosecution of Application No. 10/670,478, filing date September 26, 2003, and a computer translation was provided.

38. **JP 5-221829**: An abstract of the disclosure of this document can be found in the English language Patent Abstract of Japan, submitted herewith, and cited on the attached IDS Form PTO/SB/08.

39. **WO 96/10044** - This document is believed to be related to U.S. Patent No. 6,280,713. This document is also the publication of JP H10-506404, which is not available except in the form of the PCT document. An English-language abstract is also found on the face of the document.

40. **WO 98/31329**: This document is believed to be related to U.S. Patent No. 6,126,929, cited on the attached IDS Form PTO/SB/08.

41. **WO 01/13863**: An English language Abstract of this document is submitted herewith. An English-language abstract is also found on the face of the document.

42. **WO 01/51018** - An English language Abstract of this document is submitted herewith. An English-language abstract is also found on the face of the document.

43. **WO 02/05762** - This document is believed to be related to U.S. Patent Application Publication No. 2004/0052745. An English-language abstract is also found on the face of the document.

44. **WO 03/046032**: This document is believed to be related to U.S. Publication Nos. 2003/0124074, 2007/0003506, 2007/0003507, and 2008/0159965, cited on the attached IDS Form PTO/SB/08.

45. **WO 2004/022009**: This document is believed to be related to U.S. Publication Nos. 2004/0137020, 2004/0137021, 2006/0099231, and 2006/0134038, cited on the attached IDS Form PTO/SB/08.

46. **WO 2004/022010**: This document is believed to be related to U.S. Publication Nos. 2004/0137020, 2004/0137021, 2006/0099231, and 2006/0134038, cited on the attached IDS Form PTO/SB/08.

47. **French Search Report for FR 02/11949**: This is the French Search Report for FR 02/11949 for co-pending Application No. 10/670,478 (Attorney Docket No. 05725.1242-00).

48. **French Search Report for FR 03/11340**: This is the French Search Report for FR 03/11340 for co-pending Application No. 10/949,448 (Attorney Docket No. 05725.1374-00).

49. **International Search Report for PCT/FR03/02841**: This is the International Search Report for the PCT counterpart to co-pending U.S. Application No. 10/529,267 (Attorney Docket No. 05725.1445-00).

50. **International Search Report for PCT/FR03/02849**: This is the International Search Report for the PCT counterpart to co-pending U.S. Application No. 10/529,265 (Attorney Docket No. 05725.1418-00).

51. **International Search Report for PCT/IB2005/000230**: This is the International Search Report for the PCT counterpart to co-pending U.S. Application No. 10/585,817 (Attorney Docket No. 05725.1586-00).

52. **International Search Report for PCT/IB2005/000236**: This is the International Search Report for the PCT counterpart to co-pending U.S. Application No. 10/585,818 (Attorney Docket No. 05725.1589-00).

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

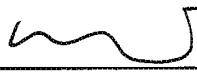


If there is any fee due in connection with the filing of this Statement, please  
charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: March 10, 2009

By:   
Wen Li  
Reg. No. 62,185  
(202) 408-4000